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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/554,977

12/28/2005

Bradley Clark

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EXAMINER

QIN, JIANCHUN

ART UNIT

PAPER NUMBER

2837

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/554,977	<b>Applicant(s)</b> CLARK, BRADLEY	
	<b>Examiner</b> Jianchun Qin	<b>Art Unit</b> 2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 9-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8 is/are rejected.
- 7) ☒ Claim(s) 6 and 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/28/05</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Election/Restrictions***

1. Per Applicants' response dated 02/14/2008, a provisional election without traverse of claims 1-8, 11 and 13-20 of Group I and further with traverse of claims 1-8 in Species I is acknowledged. Claims 9-28 are withdrawn from further consideration by the Examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant's arguments about the traversal are noted by the examiner. However, the examiner's position is that: where there is no disclosure of relationship between species (see MPEP 806.04(b)), they are *independent* (emphasis added) inventions and election of one invention following a requirement for restriction is mandatory even though application disagrees with the examiner. There must be a patentable difference between the species as claimed. See MPEP 806.04(h), Since the claims are directed to independent inventions, restriction is proper and made final pursuant to 35 U.S.C. 121, and it is not necessary to show a separate status in the art or separate classification (MPEP 808.01(a)).

### ***Specification***

2. The Abstract of the Disclosure is objected to because of the following informalities:

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that

***the abstract not exceed 150 words in length*** since the space provided for the abstract on the computer tape used by the printer is limited. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details. Correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Brakewell (U. S. Pat. No. 3443466).

Regarding claim 1, Brakewell discloses a method of assembling a musical instrument (Abstract; Figs. 1-4; col. 3, lines 53-68), the instrument having a first major panel (5) and a side wall (8), the first major panel including a groove (7) or rebate cut into the panel according to a predetermined pattern (col. 3, lines 32-34), the method including the steps of: providing a first assembly jig (1) adapted to support the panel (col. 3, lines 16-29); laying the panel on the first jig (col. 3, lines 16-29); providing a second assembly jig (9) adapted to hold the side wall in a configuration corresponding to the predetermined pattern of the groove or rebate (Fig. 4; col. 3, lines 54-57); placing the side wall into the second jig such that a free edge of the side wall substantially follows the predetermined pattern (col. 3, lines 54-57); applying adhesive to the groove

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or rebate (col. 3, lines 54-57); bringing the jigs together such that the free edge of the side wall is inserted into the groove or rebate (col. 3, lines 63-67), and applying a compression force across the first and second jigs to urge the side wall into the groove or rebate (col. 4, lines 43-45).

Regarding claim 2, Brakewell discloses: wherein the predetermined pattern of the groove (7) or rebate is configured such that the groove or rebate extends substantially around the periphery of the panel (col. 3, lines 32-34).

Regarding claim 3, Brakewell discloses: wherein the first major panel is a front panel of the instrument (col. 3, lines 30-39; col. 3, lines 54-57).

Regarding claims 4 and 5, Brakewell discloses: wherein the instrument includes a neck component (12) projecting in a direction away from the side wall and at a predetermined orientation relative to the first major panel (Fig. 4), wherein the first assembly jig is also adapted to support the neck component in said predetermined orientation (inherent to the structure and configuration shown in Figs. 1 and 4), and wherein the method includes the steps of: laying the neck component on the first jig such that a base part of the neck component overlies a part of the first major panel (Figs. 1 and 4; col. 3, lines 61-69); adhering the neck component to the first major panel (col. 3, lines 61-69); and adhering the side wall to a side portion of the neck component (col. 3, lines 61-69).

Regarding claim 8, Brakewell discloses: removing excess material from the first and/or second major panel after being adhered to the side wall (col. 3, lines 34-37).

***Allowable Subject Matter***

5. Claims 6 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Reasons for Allowance***

6. The following is an examiner's statement of reasons for allowance:

The primary reason for the allowance of claims 6 and 7 is the inclusion of the claimed method steps of: removing the second jig from the side wall; applying adhesive to the groove or rebate of the second major panel; placing the second major panel onto an edge of the side wall; providing a third assembly jig adapted to engage the second major panel; placing the third jig over the second panel; and applying a compression force across the first and third jigs to urge the first major panel, the side wall and the second major panel together. It is this limitation found in the claim, as it is claimed in the combination that has not been found, taught or suggested by the prior art of record, which makes this claim allowable over the prior art.

***Contact Information***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jianchun Qin whose telephone number is (571) 272-5981. The examiner can normally be reached on 8am - 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on (571) 272-1988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Q./

Examiner, Art Unit 2837

/Lincoln Donovan/

Supervisory Patent Examiner, Art Unit 2837